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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/003,057 | 11/02/2001 | Koen Hendrik Johan Vrielink | NL 000571 | 4904 |

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BRIARCLIFF MANOR, NY 10510

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| EXAMINER |
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FLETCHER, JAMES A

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| ART UNIT | PAPER NUMBER |
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2621

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
|--|------------|---------------|
| 3 MONTHS | 04/19/2007 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/003,057

Applicant(s)

VRIELINK, KOEN HENDRIK
JOHAN

Examiner

James A. Fletcher

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20-22 is/are allowed.
- 6) ☒ Claim(s) 10-16 and 23-37 is/are rejected.
- 7) ☐ Claim(s) 17-19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 22 January 2007 regarding claims 10-15 have been fully considered but they are not persuasive.

In re pages 11 and 12, Applicant's Representative states: "Wysong does not disclose or suggest 'information transmitted in parallel in a plurality of channels... wherein the user can select one of the channels for reproduction of secondary information 'initiated each time the user has changed the selected channel' as recited in claim 10, because the reproduction of secondary information in Wysong is triggered by 'an address code toward specifically identified subscribers.'"

The Examiner respectfully disagrees. Wysong explicitly discloses the programmability of the subscriber identification in Col 6, lines 61-69. Although it is not expected that this programming would be changed routinely, clearly the programming function is the selection of a channel, and in making that selection, the programmer is a user of the equipment.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 10-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wysong.

Regarding claim 10, Wysong discloses a mode where the selected program terminates after a time (Col 1, lines 65-68 "The second subcarrier also contains a signal which causes the receiver to revert back to normal programming once a particular message has concluded"), but is silent on the mode being initiated by a user.

The Examiner takes official notice that user intervention is notoriously well-known, commercially available, and widely used on a variety of equipment, allowing a user to have the equipment perform the actions the user prefers or desires at the time the user prefers or desires it.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Wysong in order to include a user-initiated mode.

Regarding claim 11, Wysong discloses the secondary information is transmitted parallel to the primary information (Col 1, line 51 "Two subcarriers are used").

Regarding claim 12, please see Examiner's remarks regarding claim 8.

Regarding claim 13, please see Examiner's remarks regarding claim 9.

Regarding claim 14, please see Examiner's remarks regarding claim 1.

Regarding claim 15, Wysong is silent on digitally encoding of the information.

The Examiner takes official notice that digital encoding of audio and video information is notoriously well known, commercially available, and widely used, providing users and providers with a robust, high quality, reliable means of transmitting information.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Wysong to digitally encode the program information.

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4. Claims 16, 23, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wysong (3,922,607) in further view of Motorola ("Integrated Datacasting Solutions for Digital Television").

Regarding claims 16, 23, and 24, Wysong discloses a method of transmitting and receiving audio information that is divided into primary, secondary, and tertiary programs, the secondary programs are transmitted in an alternating sequence and the tertiary programs are transmitted parallel to those programs (Col 3, lines 1-5 "one subcarrier is modulated with substantially continuous program material, such as background music, and another subcarrier is modulated with sequential messages, each message having associated therewith [sic] a coded address signal").

Wysong is silent regarding the transmission of the tertiary programs expanded in time.

Motorola teaches the transmission of auxiliary data for later use in a non-real-time method (pages 9 and 10, regarding the opportunistic replacement of null packets with datacast files).

As taught by Motorola, the transmission of auxiliary data for later use in a time-expanded mode is well known, allowing the provider the opportunity to send data without expanding the bandwidth required to the level necessary for real time transmissions.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Wysong in order to provide an expanded time transmission of the tertiary program data.

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5. Claims 25-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination as applied to claims above, and further in view of Ebisawa (5,886,731).

Regarding claim 25, Wysong discloses reproducing the three programs (Col 2, lines 1-4).

Wysong is silent regarding a pause mode.

Ebisawa teaches switching among normal, pause, and resume modes wherein, when in the normal mode, the primary and secondary programs are reproduced as transmitted (), and when in the pause mode, reproduction of the primary program is interrupted, tertiary programs are reproduced instead, and any further received primary programs are stored in a buffer (), and

- when in the resume mode, storage of received primary programs in the buffer is continued, reproduction of primary programs is resumed from the instant at which it was interrupted, primary programs being retrieved from the buffer while any interposed secondary programs are omitted from reproduction (), and
- when the resume mode finishes with a return to the normal mode if the primary program currently reproduced from the buffer ends during the transmission of the secondary program that follows the primary program currently reproduced from the buffer in the transmission sequence (Col 10, lines 18-26).

As taught by Ebisawa, storage of normal program material in a local storage medium during insertion of commercial messages is well known, and allows the

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program vendor to provide the customer with a complete program, in spite of additional commercial data being inserted into the program stream.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination to allow the storage of normal program material for later playback after the completion of inserted commercial messages.

Regarding claims 26 and 29, Wysong is silent regarding the storage of programs and reproduction of those stored programs after the completion of commercial messages.

Ebisawa teaches the storage of program data received while an additional commercial message is being presented for presentation after the completion of the commercial message (Col 9, lines 27-38).

As taught by Ebisawa, the storage of program material transmitted during the presentation of a commercial message is well known, providing the user and the programmer with the ability to have the entire program presented to the user without regard for the number of commercial messages presented to the user.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Wysong in order to provide for the storage of program material for presentation to the user at the completion of the inserted commercial message.

Regarding claim 30, Wysong discloses a method of transmitting programs broadcast by a radio transmitter (Col 2, line 68 "an improved broadcasting system").

Regarding claim 27, Wysong discloses a method of transmitting programs wherein the secondary programs are not stored in a buffer (Col 4, lines 27-33).

Regarding claim 28, Wysong discloses a method of transmitting programs comprising designating parts of at least one of the buffer and the memory as free as soon as the programs stored therein have been reproduced (Col 10, lines 33-35, lines 64-67, and Col 11, lines 12-15). By only providing adequate storage for the total length of the commercials while storing program data as the commercials are being presented to the user, it is clear that the storage used for commercials is being made available as soon as the commercial data is presented to the user.

Regarding claim 31, Wysong discloses a method of transmitting programs that comprise commercials (Col 1, lines 60-63 "a second subcarrier generator, at a different frequency, is modulated with a second program, such as commercial messages").

Allowable Subject Matter

6. Claims 17-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding claims 17-19, the prior art discloses several information streams consisting of sequential programs and a parallel program, as analyzed and discussed above. The prior art does not disclose the use of a buffer for intermediate storage of a stream not being played while the other stream is being played.

7. Claims 20-22 are allowed.

Regarding claims 20 -22, please see Examiner's remarks regarding claims 17-19 above.

The Examiner notes that Hite et al (6,002,393), referred to as Beauregard, was cited in the PCT report as an X reference against claims 20-22. The Examiner feels that this reference is misapplied, because it does not fairly disclose, teach, or suggest the information in each channel being divided into primary and secondary information as recited in claim 20. Rather, Hite et al disclose a parallel program that is only one type of information, that being commercials.

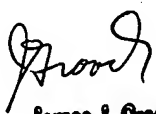
Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Fletcher whose telephone number is (571) 272-7377. The examiner can normally be reached on 7:45-5:45 M-Th, first Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Groody can be reached on (571) 272-7950. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JAF
16 April 2007


James J. Groody
Supervisory Patent Examiner
Art Unit 262 2621